THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28587 of 1997

Dated:5.4.2007

Between
Cotton Corporat6ion of India Limited,
A.P.Branch rep., by its Branch Manager,
Guntur.

.....Petitioner

and

1.The Presiding Officer, Labour
Court, Guntur and another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28587 of 1997

ORDER

This writ petition is directed against an award made in ID No.16 of 1989 dated 18.8.1997 on the file of the Labour Court, Guntur.

The petitioner is the Management. Respondent No.2 is the workman.

It appears that the 2nd respondent-workman joined in the services of the petitioner-Organization as Upper Division Clerk in the month of March, 1974. Thereafter, he was promoted as Office Manager (Accounts). While working as such, he was on medical leave from 28.4.1987 to 18.5.19987 and the said medical leave was further extended up to

13.9.1987. In view of his continued absence, a charge memo was issued and explanation was called for. Having not satisfied with the explanation, a detailed enquiry was ordered. The Enquiry Officer found the workman guilty of the charges. The Disciplinary Authority after completing all the formalities, removed the workman from service. Aggrieved by the same, the 2nd respondent-workman raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court .

It was his case before the Labour Court that in the year 1986, he was promoted as Office Manager (Accounts) and was posted at Adilabad. He made a representation to the Management of Central Office stating that he may be posted within Tamilnadu as his wife is an employee of Tamilnadu Government, whose services are not transferable beyond the State of Tamilnadu. In spite of that, his

request was turned down and he had foregone his promotion. Again, the workman was promoted as Officer Manager in September, 1987 and was posted at Warangal. Again, he made a representation for a change of posting and the Management assured that he would be accommodated at Coimbatore after working for one cotton season. On this specific assurance of the Management, he joined duty at Warangal and discharged his duties without any blemish and to the satisfaction of the Management. But what became an eye sore to the Management is the fact that the workman has been very actively involved in the Trade Union activities of the Corporation Employees Union. In fact, the workman is one of the founders of the Cotton Corporation Employees Union and he served as President of the Union for a long time. While that being so, he applied medical leave from 28.4.1987 to 18.5.19987 and the said medical leave was further extended up to 13.9.1987. Taking

advantage of the situation, the Management issued charge memo to the workman and after conducting an enquiry, removed him from the service.

A detailed counter affidavit has been filed by the petitioner-Management denying the allegations made by the respondent-workman. It is asserted that since the workman absented himself from duties, certain charges were framed and a charge memo was issued and subsequently, an enquiry was properly conducted, where the workman was permitted to defend himself fully by permitting to take assistance of his co-worker. In fact, it is the workman who threatened the Management that he would go on hunger strike till his death if he is not posted at Coimbatore. Apart from that, the charges framed against the workman are proved. No ground is made out to interfere with the Award passed by the Labour Court.

Before the Labour Court, no oral or

documentary evidence was adduced on either side.

The Labour Court, after perusal of the entire material placed before it, came to a conclusion that the enquiry conducted by the petitioner-Management was legal and valid and the charges framed against the workman are proved. But, however held that the punishment of removal from service is disproportionate to that of the misconduct alleged against the workman, and by exercising its powers under Section 11-A of the Act, directed the petitioner-Management to reinstate the 2nd respondent-workman with continuity of service, without back wages and by imposing the punishment of deferment of one annual increment with cumulative effect. Aggrieved by the same, the petitioner-Management filed the present writ petition.

While admitting the writ petition, on 01.11.1997 in WPMP No.33314 of 1997, this

Court granted interim suspension of the impugned award subject to condition that the petitioner complying with the mandatory requirements under Section 17-B of the Act. Thereafter, in W.P.M.P.No.4797 of 1998, on 12.4.1999 the following order was passed.

> "*On 1.11.1997, interim suspension of the impugned order was granted subject to the petitioner comply with the mandatory requirement of Section 17-B of the Industrial Disputes Act, 1947. Learned counsel for the petitioner states that second respondent is employed somewhere in Dubai in a private company but his address is not known. The petitioner is directed to comply the docket order 1.7.1997 and deposit the amounts in fixed deposit in some nationalized bank for the second respondent until the whereabouts of the second respondent are known. This order should be complied with within a period of one month from today. Thus the WPMP is disposed of.*"

Aggrieved by the aforesaid order in W.P.M.P., the petitioner-Management carried the matter in appeal and the writ appeal was

disposed of.

Learned counsel for the petitioner-Management contended that after issuing a charge memo, an enquiry was conducted, and as the charges framed against the workman were proved, he was removed from service. As such, no ground is made out to interfere with the removal order passed by the Management.

Learned counsel for the 2nd respondent supported the impugned Award passed by the Labour Court and contended that absolutely, no ground is made out calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the award of the Labour Court and other material made available on record.

At the out set, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court. The Labour Court after appreciation of the material placed before it, has come to a conclusion that the disciplinary enquiry conducted by the Management was legal and valid, and the charges framed against the workman were proved. But, in the facts and circumstances, while exercising its powers under Section 11-A of the Act, Labour Court came to the conclusion that even if the charges are proved, the case does not warrant inflictment of punishment of dismissal of the 2nd respondent from service. It is not the case of the Management that the workman had any past history, which is bad. Apart from that, though it is more than 10 years, the petitioner-Management has not complied with the interim order, dated 01.11.1997.

Under those circumstances, I am of the

opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. Writ petition is devoid of merits and is liable to be dismissed.

Accordingly, writ petition is dismissed. No costs.

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05-04-2007

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